

# STATE OF WISCONSIN Division of Hearings and Appeals

In the Matter of	
	DECISION
PRELIMINARY RECITALS	
Pursuant to a petition filed July 6, 2015, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for personal worker (PCW) services, a hearing was held on July 22, 2015, by telephone.	
The issue for determination is whether the DHCAA correctly denied PCW services.	
	PARTIES IN INTEREST: Petitioner:
	Respondent:
	Department of Health Services
	1 West Wilson Street, Room 651 Madison, Wisconsin 53703
	By: Written submission of Nurse Consultant
	ADMINISTRATIVE LAW JUDGE:
	Brian C. Schneider Division of Hearings and Appeals
FINDINGS OF FACT	
1.	Petitioner is a 61-year-old resident of Milwaukee County who receives MA.
2.	Petitioner has received PCW services in the past. On April 13, 2015, requested 12.25 hours per week services plus travel time and additional "as-needed" hours, PA no. By a letter dated June 15, 2015, the DHCAA denied the request.
3.	Unlike previous requests for PCW services for petitioner, this request was reviewed for medical necessity by a Department consultant. The consultant reviewed petitioner's medical records to

determine if a need for services was evident.

4.

Petitioner's primary diagnoses are diabetes and hypertension.

5. The consultant found discrepancies in petitioner's condition between the PCW assessment and petitioner's medical records. For example, the assessment stated that petitioner has poor vision, but medical records showed no particular vision problems other than the use of glasses. The assessment noted that petitioner needs assistance due to poor range of motion, and that petitioner even needs assistance with range of motion exercises. Medical records show normal range of motion in all joints. No mention is made in the medical record of rheumatoid arthritis, although arthritis is given in the PCW assessment as the primary reason petitioner needs assistance with toileting, bathing, and insulin administration.

#### **DISCUSSION**

Personal care services are "medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community." Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

- 1. Assistance with bathing;
- 2. Assistance with getting in and out of bed;
- 3. Teeth, mouth, denture and hair care;
- 4. Assistance with mobility and ambulation including use of walker, cane or crutches;
- 5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
- 6. Skin care excluding wound care;
- 7. Care of eyeglasses and hearing aids;
- 8. Assistance with dressing and undressing;
- 9. Toileting, including use and care of bedpan, urinal, commode or toilet;
- 10. Light cleaning in essential areas of the home used during personal care service activities;
- 11. Meal preparation, food purchasing and meal serving;
- 12. Simple transfers including bed to chair or wheelchair and reverse; and
- 13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3.

The DHCAA now utilizes a Personal Care Screening Tool, a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the DHCAA's reviewer can then adjust to account for variables missing from the screening tool's calculations.

In this case the DHCAA denied the requested PCW services because close scrutiny of petitioner's medical records show that his physical condition does not match the condition described in the PCW assessments. Petitioner and his caregiver testified, and when I asked them what the caregiver did for petitioner, both answered that she helped with chores and cooking. They said nothing about helping petitioner with dressing, bathing, or toileting, which are the primary PCW tasks. As noted in the findings, petitioner's medical records show that he has complete range of motion, and thus he should not require help with tasks that require physical agility.

Petitioner did provide a note from his doctor recommending that PCW services continue. The note, almost glaringly, fails to mention any basis for petitioner to require PCW assistance.

## **CONCLUSIONS OF LAW**

The DHCAA correctly denied PCW services because petitioner's medical records show no need for assistance with activities of daily living.

#### THEREFORE, it is

#### **ORDERED**

That the petition for review herein be and the same is hereby dismissed.

### REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision.** Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

#### APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison, Wisconsin, this 27th day of July, 2015

\sBrian C. Schneider Administrative Law Judge Division of Hearings and Appeals



# State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 27, 2015.

Division of Health Care Access and Accountability